

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

FILED  
at Santa Fe, N.M.

MAR 02 2005

MATTHEW J. DYER  
CLERK

STATE OF NEW MEXICO, *ex rel.*  
State Engineer

Plaintiff,

vs.

RAMON ARAGON, *et al.*,

Defendants.

69cv07941 BB-ACE

RIO CHAMA STREAM SYSTEM  
Section 5: Rio Gallina

Subfile Nos. CHGA-004-0003

**CONSENT ORDER**

The Court, having considered the agreement between the Plaintiff State of New Mexico, *ex rel.* State Engineer ("State") and Defendant:

**FAYE DAVIS**

concerning the Defendant's right to use the public waters of the Rio Chama Stream System, as set forth below finds:

1. The Court has jurisdiction over the State of New Mexico *ex rel.* State Engineer, Defendant Davis and the subject matter of this suit.
2. The State and the Defendant are in agreement concerning the Defendant's right to divert and use the public waters of the Rio Chama Stream System, Rio Gallina, Section 5, and by their signatures appearing below, the State and the Defendant have approved and accepted the elements of Defendant's water rights as set forth in paragraph 5 herein, subject to the conditions listed in paragraph 6.

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3. This Consent Order resolves all disputes between the State and the Defendant in connection with the Defendant's claims under Subfile No. CHGA-004-0003, including all matters addressed by the Special Master's Report and Recommendations on Disputed Subfiles filed July 23, 2003 (Doc. No. 7203), and the Order by United States District Judge Bruce D. Black adopting the findings of fact and conclusions of law recommended by the Special Master's Report (Doc. No. 7392, filed January 20, 2004).
4. There is no just reason for delay for the entry of a final judgment as to elements of the claims of the Defendant adjudicated by this order.
5. The right of the Defendant to divert and use the public waters from the Rio Chama Stream System, Rio Gallina, Section 5, is set forth below, subject to the conditions listed in paragraph 6:

**A. IRRIGATED LANDS (Surface Water Only):**

**Office of the State Engineer Files No(s):** NONE

**Priority:** 1876

**Source of Water:** Surface water of the Rio Capulin, a tributary of the Rio Gallina, a tributary of the Rio Chama.

**Purpose of Use:** IRRIGATION

**Point of Diversion:**

Ditch Name: Sanchez-Maestas Ditch

Location X: 1,466,030 feet Y: 1,907,424 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Irrigated Acreage:**

<u>Section 09, Township 23N, Range 01E, N.M.P.M.</u>	
Pt. NW¼	2.8
Total	<u>2.8 acres</u>

As shown on the attached revised Hydrographic Survey Map for Subfile No.  
CHGA-004-0003

**Amount of Water:** Reserved for future determination by court order entered July 25, 2000; provided that the determination of the consumptive irrigation requirement (CIR) and farm delivery requirement (FDR) for the acreage under this subfile shall be equivalent to the CIR and FDR for Section 5 as a whole.

**B. NO RIGHT (Surface Water Only):**

**Office of the State Engineer Files No(s):** NONE

**Priority:** NONE

**Source of Water:** Surface water of the Rio Capulin, a tributary of the Rio Gallina, a tributary of the Rio Chama.

**Purpose of Use:** NO RIGHT

**Point of Diversion:**

Ditch Name: Sanchez–Maestas Ditch  
Location X: 1,466,030 feet Y: 1,907,424 feet  
New Mexico State Plane Coordinate System, Central Zone, NAD 1983

**Location and Amount of Acreage:**

<u>Section 09, Township 23N, Range 01E, N.M.P.M.</u>	
Pt. NW¼	3.2
Total	<u>3.2 acres</u>

As shown on the attached revised Hydrographic Survey Map for Subfile No.  
CHGA-004-0003

**Amount of Water:** NONE

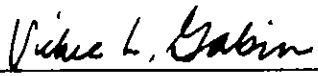
6. The water rights adjudicated by this Consent Order shall remain appurtenant to the location described herein and shall not be transferable to a new place of use.
7. Defendant has no surface water rights in the Rio Chama Stream System, Rio Gallina, Section 5, other than those set forth in this order and those other orders entered by this Court in this cause.
8. Defendant, her successors, representatives, heirs and assigns, should be enjoined from any use of the surface waters of the Rio Chama Stream System, Rio Gallina, Section 5, except in strict accordance with the water rights described herein.
9. The water rights described herein are adjudicated subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.

IT IS THEREFORE ORDERED that the rights of the Defendant to divert and use the waters of the Rio Chama Stream System, Rio Gallina, Section 5, are as set forth herein. The Defendant, her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public surface waters of the Rio Chama Stream System, Rio Gallina, Section 5, except in strict accordance with the rights set forth herein or in other orders of the Court.

IT IS FURTHER ORDERED that the Court enters this Consent Order as a final judgment as to the elements of the Defendant's water rights set forth herein, subject to the right of other claimants to file objections to individual adjudication orders, and to the entry of the final decree in this proceeding.


  
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BRUCE D. BLACK  
UNITED STATES DISTRICT JUDGE


Approved:

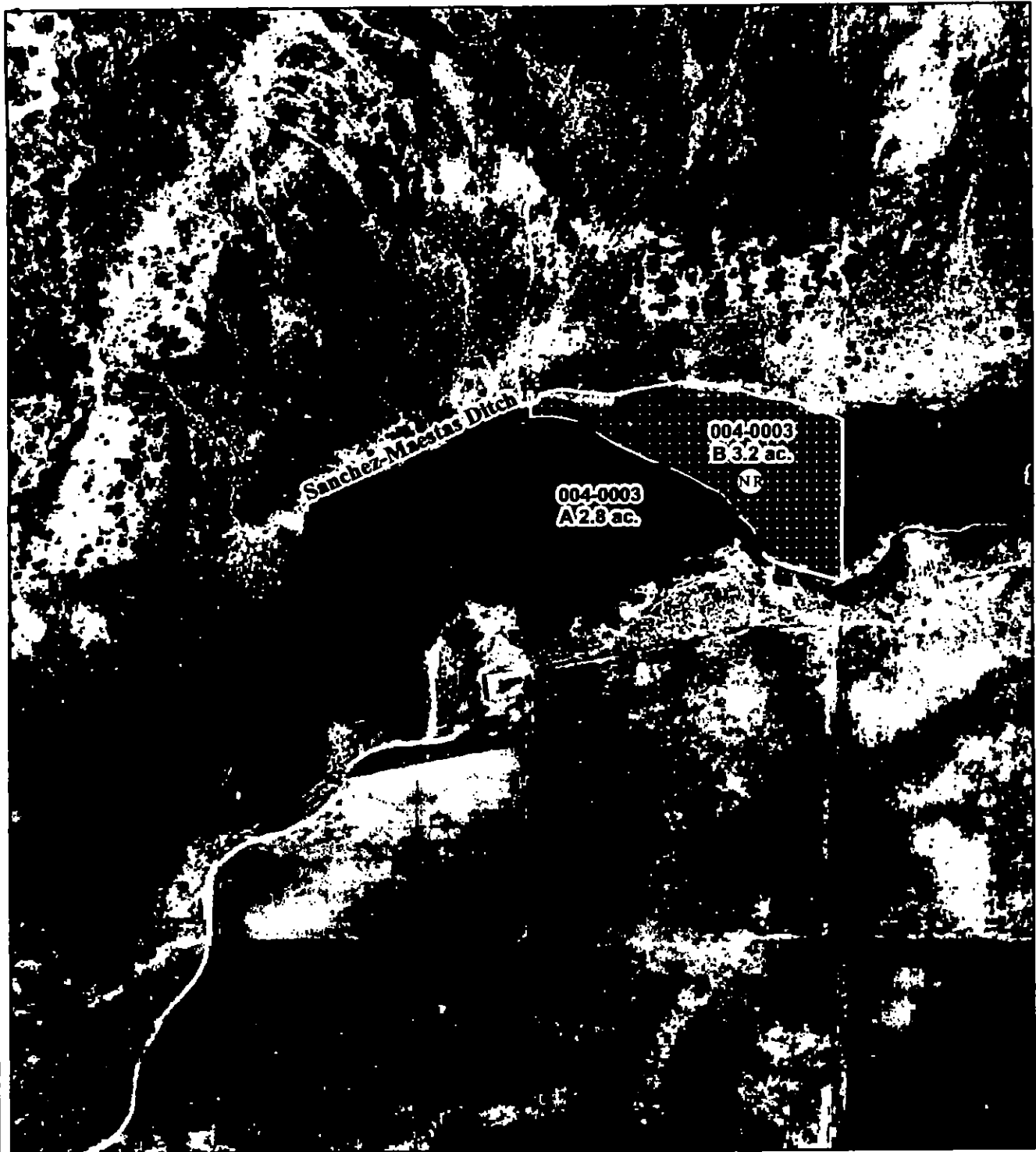
  
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VICKIE L. GABIN  
SPECIAL MASTER

Approved and Accepted:







  
\_\_\_\_\_  
FAYE DAVIS

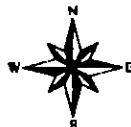
  
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MARY E. HUMPHREY  
Attorney for Defendant

  
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EDWARD G. NEWVILLE  
Special Assistant Attorney General

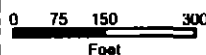


**LEGEND**

-  Irrigated Tract Boundary
-  Pond
-  Operable Ditch
-  Inoperable Ditch
-  Point of Diversion
-  Land With No Rights



1 inch = 300 feet



STATE OF NEW MEXICO  
Office of the State Engineer  
John R. D'Antonio, Jr., P.E., State Engineer

Rio Chama Hydrographic Survey  
RIO GALLINA SECTION

Subfile Number  
CHGA 004-0003  
Sanchez-Maestas  
Ditch  
AMENDED  
August 18, 2004

